

**BEFORE THE ARIZONA BOARD OF
OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY**

IN THE MATTER OF:)	Case No. 2743
)	
DAVID WILLIAM NYMAN, D.O.)	FINDINGS OF FACT,
Holder of License No. 3510 for the)	CONCLUSIONS OF LAW
practice of osteopathic medicine in the)	AND ORDER OF REVOCATION
State of Arizona.)	
_____)	

The above-captioned matter came before the Arizona Board of Osteopathic Examiners in Medicine and Surgery (hereafter "Board") for consideration on April 29, 2000. Said proceedings were a result of a Summary Suspension Order issued by the Board on March 4, 2000 pursuant to A.R.S. § 32-1855. David William Nyman, D.O. (hereafter "Respondent") was duly notified of the administrative formal complaint proceeding. Respondent appeared before the Board on April 29, 2000 and provided testimony and evidence. Following presentation of evidence and information to the Board, and the Board having considered all the evidence and information in the matter thus presented, and being fully advised, enters the following Findings of Fact, Conclusions of Law and Order of Revocation.

FINDINGS OF FACT

1. Respondent is licensed by the board as an osteopathic physician; and, pursuant to A.R.S. § 32-1803, et seq. (as amended), the Board has the authority to conduct an administrative hearing to determine whether action should be taken due to the unprofessional conduct by Respondent and or whether the Respondent is unable to safely engage in the practice of medicine.

2. Respondent is a licensee of the Board and the holder of License No. 3510 for the practice of osteopathic medicine in the State of Arizona.

3. The Board reviewed Respondent's application for license during a public Board Meeting concerning the Respondent's medical history and prior addiction to a controlled substance and all other relevant issues concerning his qualifications to obtain a Board license. On December 18, 1999, during its public meeting, the Board authorized preparation of an order granting Respondent a license to practice as an osteopathic physician in the State of Arizona; but, said license was placed on probation and subject to specific requirements including, but not limited to, mandatory participation in random urine drug screens, attendance at required Board Impaired Physician committee meetings, and complete abstinence from alcohol and non-prescribed medications or illicit drugs.

4. On or about February 8, 2000 and February 18, 2000, Respondent failed to appear and provide a required urine drug screen.

5. On or about February 23, 2000, Respondent failed to appear at a required Impaired Physician Committee Meeting

6. On or about February 11, 2000, March 1, 2000 and March 7, 2000, Respondent tested positive for benzodiazepines on his urine drug screen.

7. In public session, the Board voted on March 4, 2000 that Respondent was medically and/or psychologically unable to engage in the practice of medicine and was an immediate threat to the health and welfare of the public. The Board issued an order summarily suspending Respondent's medical license effective March 4, 2000.

8. Respondent was required to provide a urine drug screen within sixty minutes of the request. On or about March 6, 2000 Respondent was requested to provide a urine drug screen at 10:35 a.m. Respondent provided that urine drug screen on March 7, 2000 and tested positive for

benzodiazepines.

9. Respondent was required to provide a copy of his Board Probation Order to all employers. On March 6, 2000 respondent began work at Active Med, 3250 N. Campbell, Tucson AZ 85719 and failed to provide a copy of his Board Probation Order to Robert Parks, D.C., his employer.

10. On March 6, 2000 at 10:35 a.m. the Board's Executive Director and Deputy Director informed Respondent that he could not practice medicine in the State of Arizona until the Board made a determination on his medical license at a formal administrative hearing. Robert Parks, D.C. telephoned on March 7, 2000 and informed the Deputy Director that Respondent had treated patients at Active Med, 3250 N. Campbell, Tucson AZ 85719 on March 6, 2000.

CONCLUSIONS OF LAW

1. Pursuant to Arizona Revised Statutes § 32-1800, et seq., the Arizona Board of Osteopathic Examiners in Medicine and Surgery has subject matter and personal jurisdiction in this matter.

2. Respondent engaged in unprofessional conduct as defined in A.R.S. §32-1854:

- (6) Engaging in the practice of medicine in a manner that harms or may harm a patient or that the Board determines falls below the community standard.
- (19) Any conduct or practice contrary to recognized standards of ethics of the osteopathic medical profession.
- (20) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any of the provisions of this chapter.
- (22) Using controlled substances or prescription-only drugs unless they are provided by a medical practitioner, as defined in section 32-1901, as part of a lawful course of treatment.

- (26) Violating a formal order, probation or a stipulation issued by the Board under this chapter.
- (40) Any conduct or practice that endangers a patient's or the public's health or may reasonably be expected to do so.
- (41) Any conduct or practice that impairs the licensee's ability to safely and skillfully practice medicine or that may reasonably be expected to do so.
- (47) Conduct in the practice of medicine, which evidences moral unfitness to practice medicine.

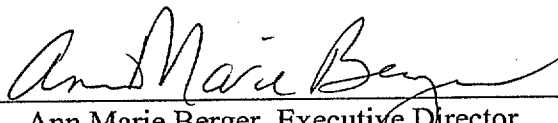
ORDER

Pursuant to the authority vested in the Board by A.R.S. § 32-1855(J), **IT IS ORDERED**
THAT:

1. The license to practice as an osteopathic physician in the State of Arizona that was issued to David William Nyman, D.O. ("Respondent") is hereby **REVOKED**; and, pursuant to A.R.S. § 32-1822(F), a person who has had his license revoked may apply for a license two (2) years after revocation.

EFFECTIVE this 29th day of April, 2000.

ARIZONA BOARD OF OSTEOPATHIC EXAMINERS
IN MEDICINE AND SURGERY

By: 
Ann Marie Berger, Executive Director
9535 E. Doubletree Ranch Rd.
Scottsdale AZ 85258

Notice of Request For Rehearing:

You have the right to request a rehearing or review of this matter pursuant to A.R.S. § 41-1092.90. The request for rehearing or review must be filed with the Arizona Board of Osteopathic Examiners in Medicine and Surgery within thirty (30) days. Specify in detail and with particularity at least one of the seven grounds that apply to your request for rehearing or review, as mandated by A.A.C. R4-22-106(C). A request for rehearing or review shall be a pre-requisite to exhaust your administrative remedies pursuant to A.R.S. § 41-1092.09.

Served by personal service or
Certified Mail this 2nd day
of May, 2000 to:

David W. Nyman, D.O.
1311 N. Seven Falls Dr.
Tucson, AZ 85737

A copy of the Complaint and Notice of
Hearing was mailed this 2nd day of
May, 2000 to:

Blair Driggs
Assistant Attorney General
Office of the Attorney General
1275 W. Washington
Phoenix AZ 85007

Tom Dennis
Assistant Attorney General
Solicitor General's Office
1275 W. Washington
Phoenix AZ 85007

Arizona Board of Pharmacy
5060 N. 19th Ave., Suite 101
Phoenix AZ 85012

Drug Enforcement Agency
Attn: Diversion Sec.
3010 N. 2nd St.
Phoenix AZ 85012

